

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BILL LIETZKE,

Plaintiff,

v.

REESE McKINNEY, et al.,

Defendants.

Case No. 3:14-cv-00176-MMD-WGC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
VALERIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (dkt. no. 4) ("R&R") relating to plaintiff's application to proceed *in forma pauperis* (dkt. no. 1). No objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,

1 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
2 view that district courts are not required to review "any issue that is not the subject of an
3 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
4 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
5 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
6 which no objection was filed).

7 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
8 determine whether to adopt Magistrate Judge Cooke's R&R. On August 12, 2014, the
9 Magistrate Judge ordered plaintiff to file a complete *in forma pauperis* application on or
10 before August 29, 2014. To date, the plaintiff has failed to comply with that order. Upon
11 reviewing the R&R and Plaintiff's filings, this Court finds good cause to accept and adopt
12 the Magistrate Judge's R&R in full.

13 It is therefore ordered, adjudged and decreed that the Report and
14 Recommendation of Magistrate Judge Valerie P. Cooke (dkt. no. 4) be accepted and
15 adopted in its entirety.

16 It is ordered that plaintiff's application to proceed *in form pauperis* (dkt. no. 1) is
17 denied and this action is dismissed without prejudice.

18 DATED THIS 21st day of October 2014.

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21 MIRANDA M. DU
22 UNITED STATES DISTRICT JUDGE
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